

Remarks

Claims 15, 16, 31 and 32 are pending. Claims 1-14, 17-30 and 33-39 are canceled in this Response.

Allowable Subject Matter

Claims 15 and 16 have been allowed.

Claims 31 and 32 were found to be allowable subject to overcoming the Section 101 rejection.

Claims 31 and 32 were rejected under Section 101 because "Applicant's definition of a computer-readable medium includes electromagnetic media which is non-statutory because no requisite functionality is present to satisfy the practical application element." Office Action page 2.

Applicant does not understand this aspect of the rejection. Applicant is not aware of a "functionality" requirement or a "practical application element" in Section 101 apart from the utility requirement. If the Examiner is somehow asserting that the subject matter of Claims 31 and 32 lacks utility, then she is respectfully requested to explain any such assertion in the next action, including citation to the appropriate legal standards so that the Applicant might have a fair opportunity to respond. If she is asserting that the reference to electromagnetic media as one of several examples of the physical media that might be used as a computer readable medium somehow renders the claims non-statutory, then she is respectfully requested to explain any such assertion in the next action, including citation to the appropriate legal standards so that the Applicant might have a fair opportunity to respond.

Applicants note that a hard disk drive (HDD) is one example of an electromagnetic medium. HDDs are functional and they have widespread practical application.

Claims 31 and 32 were also rejected under Section 101 because:

Applicant has amended the Specification at par. 51 to remove "transmit", but in that same par., "a computer/processor can fetch or obtain logic from the computer-readable medium", so a transmission of a signal is still taking place. In this case, the signal is an electromagnetic carrier signal, which falls under a nonstatutory category under 35 U.S.C. 101.

Applicant respectfully submits that the stated ground is insufficient to support the rejection for at least two reasons. First, the reference to "an instruction execution

system ... that can fetch or obtain the logic" in paragraph 0051 of the Specification is not an element of a computer readable medium. The full passage in paragraph 0051 reads as follows:

Embodiments of the present invention may be implemented in any computer-readable medium for use by or in connection with an instruction execution system such as a computer/processor based system or other system that can fetch or obtain the logic from the computer-readable medium and execute the instructions contained therein.

Thus, while the computer readable medium may be used by an instruction execution system that can fetch or obtain logic, the computer readable medium is not the instruction execution system. Consequently, even if it is assumed the instruction execution system utilizes a signal, the computer readable medium itself does not constitute any such signal.

Second, the fact that a computer may use electrical signals to process information, including obtaining and executing the logic/instructions on a computer readable medium, does not render as non-statutory either the computer or the computer readable medium. With due respect, the Examiner's analysis, taken to its logical conclusion, would render non-statutory all computers and all computer readable media simply because a computer uses signals to process the information on a computer readable medium. This is not the law.

If the Examiner disagrees, then she is respectfully requested to specifically point out and explain the appropriate legal standards and their application to the computer readable medium of Claims 31 and 32.

The rejection of Claims 31 and 32 under Section 101 should be withdrawn.

The foregoing is believed to be a complete response to the pending Office Action.

Respectfully submitted,

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